

HOUSE BILL REPORT

SSB 6162

As Passed House:

April 26, 2009

Title: An act relating to criminal justice: Providing for the supervision of offenders sentenced to community custody regardless of risk classification if the offender has a current conviction for a serious violent offense as defined in RCW 9.94A.030

Brief Description: Providing for the supervision of offenders sentenced to community custody regardless of risk classification if the offender has a current conviction for a serious violent offense.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Prentice).

Brief History:

Committee Activity:

None.

Floor Activity

Passed House: 4/26/09, 95-0.

Brief Summary of Substitute Bill

- Requires the Department of Corrections to supervise offenders convicted of a serious violent offense regardless of their risk assessment.

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Background:

Offender Accountability Act.

In 1999, the Legislature passed the Offender Accountability Act (Engrossed Second Substitute Senate Bill 5421). The Offender Accountability Act (OAA) extended community custody to all sex offenses, all crimes against persons, and all felony drug offenses. It required the Department of Corrections (DOC) to use a validated risk assessment and to supervise offenders according to their risk level. In 2003 the Legislature restricted the types

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of offenders that the DOC could supervise and increased the earned release time for certain offenders from one-third to 50 percent of their sentences.

Risk Assessment.

One purpose of the OAA is to reduce the risk of reoffense in the community. Under the OAA, the DOC is required to classify and supervise offenders according to their risk for future offending. As a part of the OAA, the Washington State Institute for Public Policy (Institute) was directed to study the impact of the OAA on recidivism. In 2003, the Institute analyzed the validity of the DOC's risk assessment tool, the Level of Service Inventory--Revised (LSI-R). The LSI-R is a 54 question survey which includes "static" and "dynamic" risk factors. A static risk factor is a factor that cannot decrease, such as an offender's criminal history. A "dynamic" risk factor can decrease through intervention, such as an offender's drug dependency. In its analysis of the LSI-R, the Institute determined how the predictive accuracy of the LSI-R could be strengthened by including more static risk information about an offender's prior record of offenses. The Institute developed a new tool for risk assessment which would have increased accuracy for predicting reoffense.

In approximately August 2008, the DOC began using the new static risk assessment tool to assign a probability of a subsequent conviction based upon the criminal history, age, and gender of Washington offenders. Instead of the risk categories of the LSI-R (A, B, C, and D, with A being the highest risk), the new tool identified the risk categories of: (1) high risk/violent; (2) high risk/non-violent; (3) moderate risk; and (4) low risk.

Supervision by the DOC.

Felony Offenders: The DOC must supervise all felony offenders sentenced to community custody who are classified as a high risk to offend (high risk/violent and high risk/nonviolent) under the new tool developed by the Institute and other felony offenders for the offenses described in the table below. The DOC must supervise all sex offenders, including those whose sole offense is failure to register, regardless of risk. The DOC must also supervise offenders classified as dangerous mentally ill offenders, those with indeterminate sentences, those required to be supervised under the Interstate Compact for Adult Offender Supervision, and offenders sentenced to special sentencing alternatives.

Misdemeanant Offenders: The DOC must supervise misdemeanor and gross misdemeanor offenders sentenced in Superior Court for Fourth Degree Assault or Domestic Violence Violation of a No Contact Order if they have a prior conviction for a sex offense, a violent offense, a crime against a person as defined in statute, Assault in the fourth Degree, or Domestic Violence Violation of a No Contact Order. The DOC must also supervise misdemeanor and gross misdemeanor offenders convicted of certain sex-related offenses for which registration is required and for the gross misdemeanor offense of Failure to Register.

<i>Two Highest Risk Categories</i>	<i>Felony Offenders Regardless of Risk</i>	<i>Offenders sentenced in Superior Court to Probation for Misdemeanor/Gross Misdemeanor Offenses</i>
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All offenders sentenced to community custody whose risk assessment places them in the either the high risk/violent or high risk/nonviolent category regardless of offense.	Felony sex offenders	Offenders convicted of: Assault 4th Degree <i>or</i> DV Violation of No Contact order; <i>and</i> a prior conviction for: (i) violent offense; (ii) sex offense; (iii) crime against person; (iv) assault 4th degree; <i>or</i> (v) DV violation of no contact order.
	All dangerous mentally ill offenders	Offenders convicted of: (i) Sexual misconduct with a minor second degree; (ii) Custodial sexual misconduct second degree; (iii) Communication with a minor for immoral purposes; <i>or</i> Failure to Register.
	All offenders with an indeterminate sentence	
	All offenders sentenced to Drug Offender Sentencing Alternative, Special Sex Offender Sentencing Alternative, and the First Time Offender Waiver	
	All Offenders required to be supervised under the Interstate Compact	

The DOC is prohibited from supervising any offender who does not fall within one of the above categories.

Summary of Bill:

In addition to the offenders currently required to be supervised by the Department of Corrections (DOC), the DOC must supervise all offenders convicted of a serious violent offense regardless of their risk assessment.

If Engrossed Substitute Senate Bill 5288, as amended by the House, is not enacted into law by August 1, 2009, this act is null and void.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except section 1 which has a contingent date, and section 2, regarding the supervision of felony offenders convicted of serious violent offenders, which takes effect August 1, 2009.